

UNITED STATES DISTRICT COURT

for the

District of South Carolina

United States of America

v.

Kelly Smith

Defendant

Case No. 9:21-cr-675

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate federal, state, or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 42 U.S.C. § 14135a.
- (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence that the court may impose.

The defendant must appear at: _____

Place

on _____

Date and Time

If blank, defendant will be notified of next appearance.

- (5) The defendant must sign an Appearance Bond, if ordered.

ADDITIONAL CONDITIONS OF RELEASE

Pursuant to 18 U.S.C. § 3142(c)(1)(B), the court may impose the following least restrictive condition(s) only as necessary to reasonably assure the appearance of the person as required and the safety of any other person and the community.

IT IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

- (☐) (6) The defendant is placed in the custody of:
 Person or organization _____
 Address (only if above is an organization) _____
 City and state _____ Tel. No. _____

who agrees to (a) supervise the defendant, (b) use every effort to assure the defendant's appearance at all court proceedings, and (c) notify the court immediately if the defendant violates a condition of release or is no longer in the custodian's custody.

Signed: _____
 _____ Custodian _____ Date _____

- (☒) (7) The defendant must:
- (☒) (a) submit to supervision by and report for supervision to the US Probation Office, telephone number 843-579-1500, no later than as directed.
 - (☒) (b) continue or actively seek employment.
 - (☐) (c) continue or start an education program.
 - (☒) (d) surrender any passport to: a US Probation Officer
 - (☒) (e) not obtain a passport or other international travel document.
 - (☒) (f) abide by the following restrictions on personal association, residence, or travel: Travel restricted to South Carolina, except with permission of the US Probation Officer J. George A.
 - (☒) (g) avoid all contact, directly or indirectly, with any person who is or may be a victim or witness in the investigation or prosecution, including: _____
 - (☒) (h) get medical or psychiatric treatment: as directed by USPO. The defendant shall contribute to the costs of such treatment not to exceed an amount determined reasonable by the court approved "U.S. Probation Office's Sliding Scale for Services," and shall cooperate in securing any applicable third-party payment, such as insurance or Medicaid.
 - (☐) (i) return to custody each _____ at _____ o'clock after being released at _____ o'clock for employment, schooling, or the following purposes: _____
 - (☐) (j) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary.
 - (☒) (k) not possess a firearm, destructive device, or other weapon.
 - (☒) (l) not use alcohol (☐) at all (☒) excessively.
 - (☒) (m) not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
 - (☒) (n) submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.
 - (☒) (o) participate in a program of inpatient or outpatient substance abuse therapy and counseling if directed by the pretrial services office or supervising officer.
 - (☒) (p) participate in one of the following location restriction programs and comply with its requirements as directed.
 - (☐) (i) **Curfew.** You are restricted to your residence every day (☐) from _____ to _____, or (☐) as directed by the pretrial services office or supervising officer; or
 - (☒) (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer; or
 - (☐) (iii) **Home Incarceration.** You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the court; or
 - (☐) (iv) **Stand Alone Monitoring.** You have no residential curfew, home detention, or home incarceration restrictions. However, you must comply with the location or travel restrictions as imposed by the court.
 Note: Stand Alone Monitoring should be used in conjunction with global positioning system (GPS) technology.
 - (☒) (q) submit to the following location monitoring technology and comply with its requirements as directed:

ADDITIONAL CONDITIONS OF RELEASE

- ☐ (i) Location monitoring technology as directed by the pretrial services or supervising officer; or
 - ☐ (ii) Voice Recognition; or
 - ☐ (iii) Radio Frequency; or
 - ☒ (iv) GPS.
- ☒ (r) pay all or part of the cost of location monitoring based upon your ability to pay as determined by the pretrial services or supervising officer.
- ☒ (s) report as soon as possible, to the pretrial services or supervising officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops.
- ☒ (t) Remain under supervision of the US Probation Officer for the duration of the bond and follow any and all instructions given by the officer. Stay in touch with attorney.
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Submit to the following sex offender conditions:

1. Your residence, co-habitants, and employment must be approved by the U.S. Probation Officer. A proposed change in lodging arrangements or employment must be reported to the U.S. Probation Officer at least 10 days before the proposed change.
2. You may not possess any audio or visual depictions containing sexually explicit conduct as defined in 18 U.S.C. § 2256(2) and may not patronize businesses or places whose primary purpose is to provide sexually-oriented material or entertainment.
3. You may not use, possess, or obtain a computer, as defined in 18 U.S.C. § 1030(e)(1), or any electronic device that can be linked to a computer network, bulletin board, internet, internet service provider, or electronic exchange format unless approved by the U.S. Probation Officer. This prohibition includes internet capable cellular phones, online gaming consoles, web cameras, or other devices that allow online image sharing. Unapproved electronic devices will be considered contraband subject to immediate search and/or seizure by the U.S. Probation Officer.

This condition does not apply to computers or other network- or internet-capable devices kept and maintained on the premises of your workplace, educational facility, or library. You may use these devices only for their intended purposes. If your work or school provides you with a network- or internet-capable device for off-premises use, that device must be reported to your probation officer and will be subject to approval and monitoring as if it were your personal device.

4. If computer use is approved, you must allow the U.S. Probation Officer, or his/her designee, to install software designed to monitor computer activities on any electronic device you are authorized to use. This may include, but is not limited to, software that may record any and all activity on personal computers (as defined in 18 U.S.C. § 1030(e)(1)) you may use, including the capture of keystrokes, application information, internet use history, email correspondence, and chat conversations. Any approved equipment must be compatible with the monitoring software used by the U.S. Probation Office, and you must permit the Probation Officer to do a preliminary computer search to confirm compatibility. You must contribute to the costs of monitoring in an amount not to exceed \$40 per month.
5. With the exception of on-premises work, school, and library computers, as described above, you may not use any computer except the one approved by the U.S. Probation Officer. You may not install any programs designed to encrypt data of any kind or designed to defeat or circumvent monitoring software. You may not use any social networking accounts without the approval of the U.S. Probation officer. You must provide complete computer use information to the U.S. Probation Officer, including, but not limited to, all passwords, internet service providers, email addresses and accounts, current and former screen names.

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6. You must permit periodic, unannounced examination of your computer, storage media, and other electronic or internet-capable devices, in a reasonable time and manner, based on the Probation Officer's reasonable suspicion of a violation of conditions relating to computer use. You must provide express, written authorization for release of information from your internet service provider.
 7. You may not possess any materials depicting and/or describing "child pornography" and/or "simulated child pornography" as defined in 18 U.S.C. § 2256. You may not enter a place where such materials can be obtained or viewed, electronically or otherwise.
 8. You may have no contact, whether verbal, written, or electronic, with minors (persons under the age of 18) except: 1) in the presence of the parent or legal guardian of the minor, whom you must notify of his conviction and prior history, *and* 2) with written approval from the U.S. Probation Officer. This does not include fleeting, incidental contact with minors engaged in food service, retail, or similar activity, with whom you must interact to obtain ordinary commercial services. If you unexpectedly come into contact with a minor, you must immediately remove yourself from the situation and notify the U.S. Probation Officer.
 9. You may not purposely linger or loiter within 100 feet of a park, school, playground, day-care center, recreation or sporting facility, or other place or event whose primary purpose is the entertainment or education of minors, without prior permission of the U.S. Probation Officer. This does not include fleeting, incidental proximity to such places or events during the course of ordinary, approved activities, such as attending a house of worship that operates a school and/or playground on the same premises.
 10. You may not be employed or volunteer in any activity that involves direct or indirect contact with minors, such as youth sports leagues or scouting. In no circumstances may you be in a position of trust or authority over a minor without express permission from the U.S. Probation Officer.
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ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (*i.e.*, in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.



Defendant's Signature

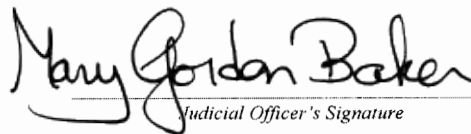
Charleston, SC

City and State

Directions to the United States Marshal

- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

Date: October 27, 2021



Judicial Officer's Signature

Mary Gordon Baker, United States Magistrate Judge

Printed name and title

DISTRIBUTION: COURT DEFENDANT PRETRIAL SERVICE U.S. ATTORNEY U.S. MARSHAL